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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,418	12/03/2003	Mark Zoller	54074D9	4767
21967 7590 05/30/2007 HUNTON & WILLIAMS LLP INTELLECTUAL PROPERTY DEPARTMENT 1900 K STREET, N.W. SUITE 1200 WASHINGTON, DC 20006-1109			EXAMINER LANDSMAN, ROBERT S	
			ART UNIT 1647	PAPER NUMBER
			MAIL DATE 05/30/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/725,418	Applicant(s) ZOLLER ET AL.	
	Examiner Robert Landsman, Ph.D.	Art Unit 1647	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 194-198, 200-206, 209 and 211-301 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 194-198, 200-206, 209 and 211-301 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/1/07; 4/30/07</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *1. Formal Matters*

- A. The Amendment filed 12/19/06 has been entered into the record.
- B. Claims 194-198, 200-206, 209 and 211-301 are pending and are the subject of this Office Action.
- C. All Statutes under 35 USC not found in this Office Action can be found, cited in full, in a previous Office Action.

### *2. Election by Original Presentation*

- A. Newly submitted claims 254 and 256-267 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the new claims are drawn to cells (class 435, subclasses 69.1 and 325) whereas the original claims are drawn to methods (435/7.1).

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. However, claim 254 and 256-267 **WILL NOT BE WITHDRAWN FROM CONSIDERATION** as being directed to a non-elected invention since it is believed these claims were written incorrectly and should likely be drawn to "A method of..." It is noted that reciting "the cell" will have no antecedent basis.

The Examiner will wait for Applicants' response before restricting these claims. See 37 CFR 1.142(b) and MPEP § 821.03.

### *3. Oath*

- A. The objection to the Oath is withdrawn in view of Applicants' submission of information showing that Jon Adler refused to sign the Oath.

### *4. Specification*

- A. All objections to the specification have been withdrawn in view of Applicants' amendments. However, Figure 3 remains objected to for the reasons already of record on page 2 of the Office Action mailed 9/22/06. The phrase "Figure 3a - 3b" should recite, for example, "Figures 3a - 3c. Figures 3a - 3b contain..."

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B. When a sequence is presented in a drawing, regardless of the format or the manner of presentation of that sequence in the drawing, the sequence must still be included in the Sequence Listing and a sequence identifier ("SEQ ID NO:X") must be used either in the drawing or in the Brief Description of the Drawings. See MPEP ' 2422.02. In the instant application, a sequence identifier must be used for the sequences appearing in Figure 1.

**5. Claim Objections**

A. All claim objections have been withdrawn in view of Applicants' amendments.

**6. Claim Rejections - 35 USC § 112, first paragraph – scope of enablement**

A. All rejections under 35 USC 112, first paragraph, have been withdrawn in view of Applicants' arguments, or amendments to the claims.

**7. Claim Rejections - 35 USC § 112, first paragraph – written description**

A. All rejections under 35 USC 112, first paragraph, have been withdrawn in view of Applicants' arguments, or amendments to the claims.

**8. Claim Rejections - 35 USC § 112, second paragraph**

A. All rejections under 35 USC 112, second paragraph, have been withdrawn in view of Applicants' amendments to, or cancellation of, the claims.

B. Claims 194-198, 200-206, 209 and 211-301 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear how a polynucleotide which hybridizes to that encoding a receptor can, itself, encode a receptor. In claim 194, part (i), the phrase "that hybridizes to SEQ ID NO:8" should be replaced with "that hybridizes to the complement of SEQ ID NO:8." Similarly, in claim 194, part (ii), the phrase "that hybridizes to SEQ ID NO:9 or 11" should be replaced with, for example, "that hybridizes to the complement of SEQ ID NO:9 or 11" as long as no new matter is being added.

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**9. Provisional Double Patenting**

A. Claims 194-198, 200-206, 209, 211-252 remain rejected and new claims 253-301 are also provisionally rejected for the reasons already of record on page 7 of the Office Action mailed 9/22/06.

**10. Conclusion**


A. No claim is allowable.

**Advisory information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Landsman whose telephone number is (571) 272-0888. The examiner can normally be reached on M-Th 10 AM – 7 PM (eastern).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet Andres at 571-272-0867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Robert Landsman, Ph.D.  
Primary Examiner  
Art Unit 1647